

ESTTA Tracking number: **ESTTA463670**

Filing date: **03/26/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Vollrath Company, L.L.C.
Granted to Date of previous extension	03/25/2012
Address	1236 N. 18th Street Sheboygan, WI 53082 UNITED STATES
Attorney information	Eric M. Schmalz Foley & Lardner LLP 777 E Wisconsin Ave. Milwaukee, WI 53202 UNITED STATES ptomailmilwaukee@foley.com

Applicant Information

Application No	77678262	Publication date	09/27/2011
Opposition Filing Date	03/26/2012	Opposition Period Ends	03/25/2012
Applicant	AS IP Holldco, LLC 1 Centennial Avenue Piscataway, NJ 08855 UNITED STATES		

Goods/Services Affected by Opposition


Class 011. All goods and services in the class are opposed, namely: Faucets
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3503213	Application Date	04/19/2006
Registration Date	09/16/2008	Foreign Priority Date	NONE
Word Mark	CAYENNE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2008/05/30 First Use In Commerce: 2008/05/30 Food warming units for professional, restaurant, commercial and institutional use

U.S. Registration No.	3833099	Application Date	04/19/2006
Registration Date	08/10/2010	Foreign Priority Date	NONE
Word Mark	CAYENNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Electric cookware, namely, deep fryers, griddles, broilers, and hot dog rollers		

U.S. Registration No.	3099286	Application Date	10/12/2004
Registration Date	05/30/2006	Foreign Priority Date	NONE
Word Mark	CAYENNE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 011. First use: First Use: 2005/09/22 First Use In Commerce: 2005/09/23 Overhead electric food warmers for commercial, institutional and restaurant use

U.S. Registration No.	3392640	Application Date	03/08/2007
Registration Date	03/04/2008	Foreign Priority Date	NONE
Word Mark	CAYENNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2007/08/01 First Use In Commerce: 2007/08/01 Food display and preparation lighting for use in professional, restaurant, institutional and food service settings		

Attachments	78980520#TMSN.jpeg (1 page)(bytes) 78864702#TMSN.jpeg (1 page)(bytes) 78498119#TMSN.jpeg (1 page)(bytes) 77125579#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (5 pages)(139375 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Eric M. Schmalz/
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Name	Eric M. Schmalz
Date	03/26/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of App. Serial No.: 77/678,262
Mark: CAYENNE
Published: September 27, 2011

THE VOLLRATH COMPANY, L.L.C.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
AS IP Holldco, LLC)	
)	
Applicant.)	
)	
)	

NOTICE OF OPPOSITION

The Vollrath Company, L.L.C. (“Opposer”), a limited liability company organized and existing under the laws of Wisconsin, with a business address at 1236 N. 18th Street Sheboygan, Wisconsin 53082-0611, believes it will be damaged by the registration of the word mark CAYENNE (the “Mark”) as shown in Application Serial No. 77/678,262 (the “Application”), filed February 25, 2009 by AS IP Holldco, LLC (“Applicant”), a limited liability company organized and existing under the laws of Delaware, with a business address at 1 Centennial Avenue Piscataway, New Jersey 08855. The Application was published for opposition on September 27, 2011 and Opposer has been granted an extension of time to oppose the Application through March 26, 2012. Opposer hereby opposes the Application pursuant to Section 13 of the Trademark Act of 1946, as amended, 15 U.S.C. § 1063.

The grounds for opposition are as follows:

1. Applicant seeks to register CAYENNE for “faucets” in Class 11.
2. Opposer is the owner of:
 - i. U.S. Registration No. 3,503,213 on the Principal Register for CAYENNE, which includes “food warming units for professional, restaurant, commercial and institutional use,” in Class 11, which was filed on March 27, 2007, and issued on September 16, 2008;
 - ii. U.S. Registration No. 3,833,099 on the Principal Register for CAYENNE, which includes “electric cookware, namely, deep fryers, griddles, broilers and hot dog rollers,” in Class 11, which was filed on April 19, 2006, and issued on August 10, 2010;
 - iii. U.S. Registration No. 3,099,286 on the Principal Register for CAYENNE, which includes “overhead electric food warmers for commercial, institutional and restaurant use,” in Class 11, which was filed on October 12, 2004, and issued on May 30, 2006; and
 - iv. U.S. Registration No. 3,392,640 on the Principal Register for CAYENNE, which includes “food display and preparation lighting for use in professional, restaurant, institutional and food service settings,” in Class 11, which was filed on March 8, 2007, and issued on March 4, 2008 (collectively, the “CAYENNE Registrations”), copies of which are attached hereto.
3. The CAYENNE Registrations are valid, subsisting, unrevoked and uncanceled.
4. The Application was filed by Applicant on February 25, 2009, based on an alleged intent to use the Mark in commerce.
5. The filing dates of the CAYENNE Registrations all predate the filing date of the Application.
6. Applicant has not filed a statement alleging use of the Mark in United States commerce in connection with the goods identified in the Application.
7. Applicant’s CAYENNE mark is identical in appearance, sound, meaning and overall commercial impression to Opposer’s CAYENNE marks.

8. Applicant's identified goods are related to the goods identified in the CAYENNE Registrations.

9. Applicant's identified goods may be offered through the usual channels of trade customary for goods of this type and, as such, may be offered through overlapping channels of trade with Opposer's goods.

10. Applicant's identified goods may be offered to the usual consumers that are customary for goods of this type and, may thus be targeted to many of the same class of consumers as those for Opposer's goods.

11. Applicant's use or registration of CAYENNE in connection with the goods identified in the Application is likely to cause confusion, mistake and/or deception.

12. Upon seeing Applicant's Mark, consumers are likely to believe in error that Applicant's goods are offered in association with or under license from Opposer, or that Opposer and Applicant are affiliated, or that Applicant's goods are sold as part of Opposer's family of products.

13. If Applicant is permitted to register the Mark for the goods set forth in the Application, confusion of the trade and public is likely to occur, such confusion resulting in damage and injury to Opposer.

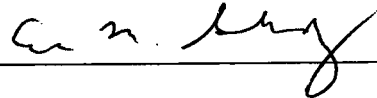
WHEREFORE, Opposer respectfully requests that this Opposition be sustained and the registration sought by Applicant be refused.

The required fee of \$300 is being submitted with this Notice of Opposition. Please charge any additional costs to our Deposit Account No. 19-0741.

Respectfully submitted,

FOLEY & LARDNER LLP

Dated: March 26, 2012

By: _____

Mark J. Diliberti/Eric M. Schmalz
Foley & Lardner LLP
777 E Wisconsin Ave
Milwaukee, WI 53202

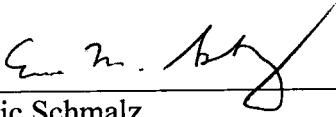
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION was deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the correspondent of record:

Maria Chiclana
AS America, Inc.
1 Centennial Ave.
Piscataway, NJ 08854-3921

Dated: 03/26/2012



Eric Schmalz